

Andrew G. Deiss (USB# 7184)
Billie J. Siddoway (USB# 9710)
JONES WALDO HOLBROOK & McDONOUGH PC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200
Facsimile: (801) 328-0537

Attorneys for Defendant Mark Robbins

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

KENNETH G. HANSEN, an individual; DAVID :
RUTTER, an individual; TODD FISHER, an :
individual; FIBERTEL, INC., a Utah :
Corporation; K&D DEVELOPMENT, L.C., a :
Utah Limited Liability Company; and :
DOUGLAS A. SMITH, an individual, :

Plaintiffs,

v.

MARC S. JENSON, an individual; MSF :
PROPERTIES, L.C., a Utah Limited Liability :
Company; BANK ONE, N.A., a national :
banking association; MARK ROBBINS, an :
individual; MADTRAX GROUP, L.L.C., a Utah :
Limited Liability Company; SPENCER :
BRANNAN, an individual; and FIRST :
WASATCH DEVELOPMENT, INC., a Nevada :
Corporation, and DOES 1-50, :

Defendants.

**OBJECTIONS TO PLAINTIFFS'
PRETRIAL DISCLOSURES**

Civil No. 2:04-CV-867

Honorable Ted Stewart

Defendant Mark H. Robbins (“Robbins”), by and through his undersigned counsel of record, hereby states his objections to the witnesses, depositions and exhibits identified by *Plaintiffs’ Rule 26(a)(3) Pretrial Disclosures* of July 30, 2008.

1. Robbins objects to calling Stan C. Craft as a proposed expert witness in this litigation. The reason for this objection, which will be set forth more fully in a motion in limine, is that Mr. Craft was not timely disclosed as an expert witness pursuant to Rule 26(a)(2) of the Federal Rules of Civil Procedure.

2. Robbins objects to the proposed presentation of evidence by deposition through the use of any deposition not taken in this litigation except as expressly stipulated by the parties. Robbins specifically objects to the presentation of the testimony of Michael Peterson through deposition taken in another action.

3. Robbins objects to proposed exhibits consisting of statements regarding the financial position or credit of Robbins, Jenson, MadTrax, VTrax, Wasatch Cycle, Madwagon or any of their affiliates, owners or employees pursuant to Utah Code section 25-5-5 including, but not limited to, the following documents identified as deposition exhibits 11, 15, 21, 31, 36, 37, 38, or as *Bodell v. Robbins* deposition exhibits 206, 215, 402, 404 406, 408.

4. Robbins objects to the following proposed exhibits as lacking authenticity or foundation pursuant to Rule 901 of the Federal Rules of Evidence: 1, 11, 14, 15, 21, 27, 31, 36, 37, 38, 61, 62, 90, 91, 105 or as *Bodell v. Robbins* deposition exhibits 106, 107, 206, 207, 215, 402, 404 406, 408.

5. Robbins objects to the following proposed exhibits as including hearsay inadmissible pursuant to Rules 801 to 805 of the Federal Rules of Evidence: 1, 11, 14, 15, 21, 27, 29, 31, 38, 47, 52, 59, 61, 62, 65, 90, 91, 92, 104, 105, 106, 107, 109, 110, 111, 114, 115; *Bodell v. Robbins* deposition exhibits 106, 107, 108, 114, 116, 117, 118, 119, 125, 127, 128, 132, 140, 141, 143, 225, 404, 408, 410, 411, 412, 420, 518, 521, 522, 523, 524, 525, 528, 529, 533, 534.

6. Robbins objects to the following proposed exhibits as requiring best evidence pursuant to Rule 1002 to 1003 of the Federal Rules of Evidence: 11, 15, 21, 31, 36, 37, 38, or as *Bodell v. Robbins* deposition exhibits 206, 215, 402, 404 406, 408.

7. Robbins objects to the following proposed exhibits pursuant to Rules 404 and 405 of the Federal Rules of Evidence as improper character evidence: 59; *Bodell v. Robbins* deposition exhibits 106, 107.

8. Robbins objects to the following proposed exhibits on the grounds that they are unreadable: 76, 77, 78, 80, 81, 82, 83, 85, 115; *Bodell v. Robbins* deposition exhibits 420, 510.

9. Robbins objects to the following proposed exhibits pursuant to Rule 602 of the Federal Rules of Evidence as lacking a basis in personal knowledge: 47, 90, 91, 92.

10. Robbins objects to the proposed exhibit identified as deposition exhibit 404 because it is compound.

11. Robbins objects to the proposed exhibit identified as deposition exhibit 142 in its unredacted form because it contains personal identifying information of non-parties.

12. Moreover, though Robbins does not waive his right to make additional objections on these grounds as allowed by the Federal Rules of Civil Procedure, Robbins objects to the

following documents as irrelevant, prejudicial, confusing, or cumulative pursuant to Rules 402 and 403 of the Federal Rules of Evidence: 1, 10, 11, 14, 15, 21, 27, 31, 38, 39, 42, 43, 44, 50, 53, 54, 59, 61, 62, 65, 70, 71, 76, 77, 78, 80, 81, 82, 83, 90, 91, 92, 94, 98, 99, 100, 101, 102, 104, 105, 106, 107; *Bodell v. Robbins* deposition exhibits 106, 107, 108, 114, 116, 117, 118, 119, 125, 127, 128, 132, 140, 141, 142, 143, 144, 206, 215, 225, 402, 404, 406, 408, 410, 411, 412, 532, 533, 534, 535, 655.

13. Robbins objects to any proposed exhibit which was not produced in this litigation or produced as an exhibit to a *Bodell v. Robbins* deposition that the parties stipulated could be used in this action.

14. Robbins further reserves the right to make additional objections to proposed witnesses and exhibits as permitted by the Federal Rules of Civil Procedure and the Court

Dated: August 13, 2008.

JONES WALDO HOLBROOK & McDONOUGH PC

By: /s/ Billie J. Siddoway
Andrew Deiss
Billie J. Siddoway
Attorneys for Defendant Mark Robbins

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 13, 2008, I caused a copy of the within and foregoing *OBJECTIONS TO PLAINTIFFS' PRETRIAL DISCLOSURES*, to be sent via CMF/ECF electronic service to the following:

Stephen J. Hill
Robert B. Lochhead
Jenifer Tomchawk
PARR WADDOUPS BROWN GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, UT 84111-1537

John A. Beckstead
Doug Owens
HOLLAND & HART
60 East South Temple, # 2000
Salt Lake City, UT 84111

Mark F. James
Mark R. Clements
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, UT 84101

James E. Magleby
Christopher Von Maack
MILLER MAGLEBY & GUYMON, P.C.
170 South Main Street, Suite 350
Salt Lake City, UT 84101

and by U.S. Mail, postage prepaid to:

Spencer Brannan
6429 S. Trophy Ct.
Gilbert, AZ 85297

/s/ Billie J. Siddoway